

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JONATHAN SANTIAGO,

Plaintiff,

v.

THOMAS LAFFERTY AND
THE CITY OF LOWELL,

Defendants.

Civil Action No. 13-CV-12172-IT

**MIDDLESEX AND ESSEX DISTRICT ATTORNEY'S OFFICES'
MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF
REQUESTING A PROTECTIVE ORDER**

The Middlesex and Essex District Attorney's Offices ("DA's Offices") move pursuant to Federal Rule of Civil Procedure 24(b)(1)(B) to intervene in this matter for the limited purpose of seeking a protective order regarding documents for which the DA's Offices hold privileges. This motion is timely and the DA's Offices' assertion of privilege is a "claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B); *see also Fontunati v. Campagne*, No. 1:07-CV-143, 2009 WL 385433, *1 (D. Vt. Feb 12, 2009) (allowing limited intervention in similar circumstances).

As grounds for the requested protective order, the DA's Offices state that documents for which they hold a privilege were produced in this matter without any authorization from the DA's Offices and without any waiver of those privileges on

the DA's Offices' part. The grounds for this motion and the requested relief are set forth more fully in the Memorandum of Law in Support of Motion for Protective Order, filed herewith, which is incorporated herein by reference.

WHEREFORE, the DA's Offices request that this Court enter a protective order requiring the return or destruction of the documents identified here, preventing the Plaintiff from using any of the information he learned from the documents unless he can prove an independent, non-privileged source of that information, and preventing any further disclosure of similarly privileged documents.

Respectfully submitted,

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Ryan E. Ferch
Ryan E. Ferch (BBO No. 670151)
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200, ext. 2842
ryan.ferch@state.ma.us

Dated: July 17, 2014

Local Rules 7.1(a)(2), 26.2(c), and 37.1 Certification

I hereby certify that I have conferred with counsel for the parties in this matter and attempted in good faith to resolve or narrow these issues.

/s/ Ryan E. Ferch
Ryan E. Ferch (BBO No. 670151)
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 17, 2014.

/s/ Ryan E. Ferch
Ryan E. Ferch (BBO No. 670151)
Assistant Attorney General